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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 23 February 2011 from the Permanent Mission of Ukraine to the United Nations addressed to the Chairman

The Permanent Mission of Ukraine to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to Security Council resolution 1540 (2004) and, referring to the latter's note of 17 October 2007 regarding the request to the Ukrainian Government to provide up-to-date information in order to facilitate the preparation of the Committee's report to the Security Council, has the honour to transfer the updated national report of Ukraine (annex I) and the matrix of 2011 (annex II).

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Annex I to the note verbale dated 23 February 2011 from the Permanent Mission of Ukraine to the United Nations addressed to the Chairman

[Original: Russian]

National report of Ukraine of 17 February 2011 on implementation of Security Council resolution 1540 (2004) of 28 April 2004 regarding non-proliferation of weapons of mass destruction (updated)

1. Participation of Ukraine in international non-proliferation regimes

Ukraine is pursuing a responsible and consistent policy in the area of arms control and the non-proliferation of weapons of mass destruction; it is an active participant in the regimes for the non-proliferation of weapons of mass destruction built around such basic international legal instruments as:

- The Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 (ratified by Ukraine on 16 November 1994);
- The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 13 January 1993 (ratified by Ukraine on 16 October 1998);
- The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction of 10 April 1972 (ratified by Ukraine on 21 February 1975).

As one of the founders of the International Atomic Energy Agency (IAEA), Ukraine fully supports IAEA efforts in the area of the non-proliferation of nuclear weapons. That commitment has been demonstrated by, in particular, Ukraine's signature and strict observance of the Agreement between Ukraine and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, as well as the signature in August 2000 of a protocol additional to this Agreement, which is intended to strengthen the IAEA safeguards regime (ratified by Ukraine on 16 November 2005).

Ukraine is a member of the five international export control regimes — the Wassenaar Arrangement (export controls for conventional arms and for dual-use goods and technologies), the Missile Technology Control Regime, the Nuclear Suppliers Group, the Zangger Committee (control of international transfers of dual-use goods which are or could be used in nuclear activities) and the Australia Group (export controls on dual-use goods which could be used to produce chemical, biological or toxin weapons).

Ukraine recognizes the key role of the regimes described above in the sphere of non-proliferation of weapons of mass destruction and control over international transfers of weapons, and is in favour of developing them further and refining the mechanisms for cooperation among States parties within the framework of these regimes, particularly by stepping up cooperation in fields such as law enforcement,

exchanges of information and also collaboration between the national authorities responsible for export control issues.

Ukraine plays an active role in the multi-purpose projects of the Global Partnership against the Spread of Weapons and Materials of Mass Destruction, a Group of Eight initiative. Ukraine is a member of the Global Initiative to Combat Nuclear Terrorism and contributes to the achievement of its aims, in accordance with the basic principles and norms of current international law and national legislation.

Ukraine provides no support in any form to State or non-State actors attempting to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons or their means of delivery. Any such support is prohibited under Ukrainian law.

Domestic legislation
Non-proliferation of nuclear weapons

(1) Declaration of State Sovereignty of Ukraine, adopted by the Verkhovna Rada on 16 July 1990, in which the Ukrainian Soviet Socialist Republic proclaims its intention to adhere to three non-nuclear principles: not to accept, not to produce and not to acquire nuclear weapons;

(2) Act on nuclear energy use and radiation safety, of 8 February 1995;

(3) Cabinet of Ministers Decision No. 1525 of 18 December 1996 approving regulations for a State accounting and control system for nuclear materials (as amended by Cabinet of Ministers Decision No. 257 of 25 March 2009);

(4) Act of 17 December 1997 ratifying the Agreement between Ukraine and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (the Agreement entered into force for Ukraine on 22 January 1998);

(5) Act of 16 November 2005 on the ratification of the Additional Protocol to the Agreement between Ukraine and IAEA for the application of safeguards pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons;

(6) Supreme Soviet Decision on the participation of Ukraine in the 1980 Convention on the Physical Protection of Nuclear Material (the Convention entered into force for Ukraine on 5 August 1993);

(7) Amendment to the Convention on the Physical Protection of Nuclear Material (ratified by Act No. 356-VI of 3 September 2008);

(8) Act No. 2064-III of 19 October 2003 on the physical protection of nuclear facilities, nuclear materials, radioactive wastes and other sources of ionizing radiation.

Non-proliferation of biological and chemical weapons

(I) Act of 16 October 1998 ratifying the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction;

In the interests of fully implementing the Chemical Weapons Convention, Ukraine has adopted the following laws and regulations:

(1) Presidential Decree No. 1080 of 26 August 1999 on the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (as amended);

(2) Cabinet of Ministers Decision No. 2230 of 9 December 1999 on assistance in the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction;

(3) Cabinet of Ministers Decision No. 920 of 6 June 2000 on regulations governing the procedure for inspections in accordance with the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (as amended);

(4) Cabinet of Ministers Decision No. 109 of 7 February 2001 approving regulations governing the procedure for the preparation of national declarations pursuant to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.

(II) Decree of the Presidium of the Supreme Soviet of the Ukrainian Soviet Socialist Republic ratifying the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, of 21 February 1975.

In August 2005, the Ministry of Health of Ukraine and the United States Department of Defense signed an agreement on cooperation to prevent the proliferation of technologies, pathogens and expertise which could be used to produce biological weapons. Pursuant to that agreement, implementation of a project to improve the biosafety and physical protection of organizations of the Ministry of Health of Ukraine began in December 2006.

Legal and regulatory framework in specific sectors

(1) Act of 24 February 1994 on public health and epidemiological well-being (as amended);

(2) Presidential Decree No. 1035/2010 of 15 November 2010 on the 2010-2012 national plan for implementation of the Washington Nuclear Security Summit Work Plan;

(3) Cabinet of Ministers Decision of 2 June 2003 on the procedure for cooperation between government authorities and legal entities that work in the area of the use of radioactive materials, in the event that trafficking is detected;

(4) Cabinet of Ministers Decision of 20 June 1995 (as amended) on the procedure for obtaining a licence to produce, store, transport, use, store, destroy or dispose of toxic substances, including biotechnology products and other biological agents;

(5) Presidential Decree No. 220/2009 of 6 September 2009 on the decision of the National Security and Defence Council concerning biological safety;

(6) The corresponding laws and regulations in the area of non-proliferation of weapons of mass destruction are mentioned in sections 2, 3, 4, 5 and 6 of this report.

2. Export control

The legal basis for State export control consists of the Constitution, laws, acts of the President and Cabinet of Ministers, other laws and regulations, and also international treaties by which the Verkhovna Rada has agreed to be bound.

The legislation on export control includes the following laws and regulations:

- Act No. 549-IV of 20 February 2003 on State control of international transfers of military and dual-use goods (as amended);
- Act No. 959-XII of 16 April 1991 on foreign trade activities (as amended);
- The Criminal Code of 5 April 2001, No. 2341-III (as amended);
- The Code of Administrative Offences of 7 December 1984, No. 8073-X (as amended);
- Presidential Decree No. 1265 of 27 December 2001 on the State Export Control Service (as amended);
- Presidential Decree No. 342 of 17 April 2002 on issues relating to the State Export Control Service (as amended);
- Presidential Decree No. 861 of 15 July 1999 on the procedure for establishing (withdrawing) restrictions on the export of goods in accordance with Ukraine's international obligations (as amended);
- Cabinet of Ministers Decision No. 767 of 15 July 1997 approving regulations governing the procedure for conducting expert analyses in the sphere of export control (as amended);
- Cabinet of Ministers Decision No. 125 of 4 February 1998 approving regulations governing the procedure for State monitoring of negotiations to draw up foreign trade agreements (contracts) for international transfers of military and dual-use goods (as amended);
- Cabinet of Ministers Decision No. 1807 of 20 November 2003 approving the Procedure for State control of international transfers of military goods (as amended);
- Cabinet of Ministers Decision No. 86 of 28 January 2004 approving the Procedure for State control of international transfers of dual-use goods (as amended);
- Cabinet of Ministers Decision No. 838 of 8 June 1998 approving regulations governing the procedure for granting entities engaged in foreign trade the right to export and import military goods and goods containing information that constitutes a State secret (as amended);
- Cabinet of Ministers Decision No. 920 of 27 May 1999 approving regulations governing the procedure for the provision of safeguards and State monitoring of obligations regarding the use, for declared purposes, of goods subject to State export control (as amended).

In the interests of Ukraine's national security and compliance with its international obligations regarding non-proliferation of weapons of mass destruction and their means of delivery and restriction of transfers of conventional weapons, regulations on State export control in Ukraine were adopted under Presidential Decree No. 117, of 13 February 1998. The regulations establish a procedure for State control of international transfers of weapons, military and specialized technology and certain types of raw material, inputs, equipment and technology which could be used to manufacture them.

The principles of State export control policy referred to in the Act on State control of international transfers of military and dual-use goods include the binding force of the obligation to fulfil Ukraine's international obligations regarding non-proliferation of weapons of mass destruction and their means of delivery, the establishment of State control of international transfers of military and dual-use goods and the implementation of measures to prevent such goods from being used for terrorist and other illegal purposes.

The preamble specifies that the Act regulates State control of international transfers of military and dual-use goods in order to protect Ukraine's national interests and ensure that it complies with its international obligations regarding non-proliferation of weapons of mass destruction and their means of delivery.

Article 4 indicates that the principles of State export control policy include the binding force of the obligation to fulfil Ukraine's international obligations regarding non-proliferation of weapons of mass destruction and their means of delivery, the implementation of measures to prevent such goods from being used for terrorist and other illegal purposes, and cooperation with international organizations and foreign States in the Sphere of State export control with the aim of strengthening international security and stability, including by preventing the proliferation of weapons of mass destruction and their means of delivery.

Article 10 sets forth State export control procedures designed to prevent the proliferation of weapons of mass destruction and their means of delivery. According to this article, export control procedures may in some cases be applied even to goods which do not appear on the export control lists (the "catch-all" principle).

As an example, if the central authorities responsible for export control receive information that there is an intention or likelihood that goods of any kind not appearing on the control lists will be used, in their country of end use, in developing, manufacturing, stockpiling, testing, repairing, servicing, modifying, modernizing, operating, managing, storing, detecting or identifying weapons of mass destruction and their means of delivery, or in their proliferation, those authorities have to notify the State Export Control Service, which may apply State export control procedures to the goods in question.

State export control also applies to the export or temporary export of goods not appearing on the control lists if the goods are being exported or temporarily exported from Ukraine to a State against which a full or partial embargo on the supply of such goods has been imposed by a United Nations Security Council resolution, by another international organization or by national legislation.

If any exporter is informed by the State Export Control Service or becomes aware through any other channel that goods of any kind intended for export or temporary export to another State may be used, wholly or partly, for development

manufacture, stockpiling, testing, repair, servicing, modification, modernization, operation, management, storage, detection, or identification or for military purposes, in a State covered by a full or partial embargo on the supply of military goods, imposed by a United Nations Security Council resolution by another international organization or national legislation, that exporter must apply to the designated export control authority in order to obtain a licence to export the goods in question, regardless of whether or not they appear on the lists.

As a result, the non-proliferation requirements oblige all exporters to apply for an export licence if they become aware that the goods are intended for use in an activity connected with the production or manufacture of weapons of mass destruction or their means of delivery, or an activity otherwise connected with such matters.

As the authority responsible for State export control, the State Export Control Service is required by article 6 of the Act to assist with activities connected with international transfers of goods or to limit or ban such activities where there are grounds to believe that the goods are connected with weapons of mass destruction or are intended for the production of such weapons or their means of delivery, or where there are no adequate safeguards (obligations) regarding the end use of the goods.

By Cabinet of Ministers Decision No. 86 of 28 January 2004, the Procedure for State control of international transfers of dual-use goods was adopted. The Procedure defines the features of State control of international transfers of dual-use goods, specifically goods which can be used to produce conventional weapons, military or specialized technology, missiles or nuclear, chemical, biological or toxin weapons, regardless of the conditions of supply, the nature of the contracts, the customs regime or other aspects of the transfer.

The Procedure applies to all entrepreneurs in Ukraine registered with the State Export Control Service as entities undertaking international transfers of goods and engaged in export, import, transit or any other form of foreign trade activity, including manufacturing, science and technology or participation as demonstrators in international exhibitions and fairs.

The Procedure therefore excludes the possibility of international transfers of dual-use goods which could be used by non-State actors to produce weapons of mass destruction or their means of delivery.

In accordance with the provisions of this Procedure, and also of the Procedure for State control of international transfers of military goods approved by Decision No. 1807 of the Cabinet of Ministers of 20 November 2003:

> It is prohibited to export individual goods to countries against which the United Nations Security Council has imposed an embargo on the export of such goods and also in the event that expert analyses in the area of State export control indicate that there are grounds to believe they are intended for:
>
> – The production of weapons of mass destruction or their means of delivery;
>
> – Use for terrorist or other illegal purposes;

- Use in activities connected with the production of nuclear explosive devices or in activities connected with the nuclear fuel cycle which are not under IAEA safeguards;
- Use in activities connected with the acquisition, production, stockpiling or use of pathogenic agents (pathogens) and toxins as biological and toxin weapons or their components.

Lists of dual-use goods

Lists of dual-use goods that may be used to produce a missile (means of delivery of weapons of mass destruction) or a nuclear, chemical or biological weapon are set forth in annexes 2, 3, 4 and 5, respectively, of the Procedure for State control of international transfers of dual-use goods.

Goods included in the lists that are transported across the customs borders of Ukraine are subject to mandatory customs clearance according to the procedure established under the legislation of Ukraine.

3. Customs control

In accordance with Act No. 549-IV of 20 February 2003 on State control of international transfers of military and dual-use goods, Presidential decrees and executive orders and other laws and regulations in the area of State export control, the State Customs Service, within its jurisdiction, together with the State Export Control Service, the Administration of the State Border Service and other ministries and departments, takes steps on an ongoing basis to prevent the proliferation of weapons of mass destruction and their means of delivery and also other goods subject to export control.

Transit across customs borders and customs clearance of weapons of mass destruction and their means of delivery are handled by customs agencies exclusively on the basis of licences from the State Export Control Service.

The State Customs Service also keeps its departments constantly informed about resolutions of international organizations concerning States against which United Nations sanctions are being applied, and also about goods that are transported across the customs borders of Ukraine, in order to ensure strict compliance with such resolutions.

In order to comply with Ukraine's international obligations arising from resolutions of the United Nations Security Council and prevent the illegal proliferation of goods subject to export control (including weapons of mass destruction and their means of delivery) and also to enhance the processing of goods in this category as a whole, the State Customs Service is taking an active role in the multi-purpose projects of the Global Partnership against the Spread of Weapons and Materials of Mass Destruction, a Group of Eight initiative. In the context of that initiative, expert training sessions and preparatory courses are held for experts from the State Customs Service.

4. Border control

1. The Procedure on joint inspection of road transport vehicles that are used for transporting export goods, approved by Joint Order No. 202/163 of 28 February

2004 of the administration of the State Border Service and the State Customs Service, entered into force on 1 May 2004.

The ministries and departments concerned have agreed to joint plans to combat terrorism at the State borders.

Border control of ships arriving in the ports of Ukraine from high-risk countries and control over their stay in the territorial sea and inland waters of Ukraine have been strengthened.

Measures are being taken to control the transport of military and dual-use goods across the State borders.

Admission into Ukraine of nationals from high-risk countries and countries in armed conflict is granted after thorough checks and interviews are conducted.

The control of the arrival (departure) of military forces (both the armed forces of Ukraine and those of foreign States) in (from) Ukraine has been strengthened.

Twenty-six points of entry across the State borders have been equipped with radiation monitoring systems.

There are plans to install fixed radiation monitoring devices at points of entry across State borders (airports and seaports) by 2012, with support from the European Union and the United States, in order to ensure the successful hosting by Ukraine of the EURO 2012 European Football Championship. There are also plans to equip 44 points of entry across State borders with fixed radiation monitoring devices over the period 2011-2015, as part of the Second Line of Defence Programme, with support from the United States Department of Energy.

2. Since 2006, Ukraine has been active in implementing projects together with member countries of the Global Partnership against the Spread of Weapons and Materials of Mass Destruction, a Group of Eight initiative.

Efforts have been made to enhance the capacities of the State Customs Service and the administration of the State Border Service for detecting and seizing any prohibited items or cargo of nuclear or radioactive substances at Ukrainian sea and river ports. In 2010, with the assistance of United States experts, fixed radiation monitoring equipment was installed at the commercial seaports of Odessa, Ilyichivsk, Mariupol, Berdyansk and Sevastopol. Specialist education and training are provided at the Academy of the State Customs Service (Dnipropetrovsk). The southern customs post has a mobile X-ray facility for customs and radiation monitoring.

With assistance from IAEA (funded by Canada), special equipment was installed over the period 2008-2010 to reduce the risk of illegal transfer of nuclear and radioactive substances by road, air or rail transport across the Ukrainian-Russian border and the Ukrainian-Belarusian border.

The following actions were taken in order to reduce the impact of corruption on assistance programmes for the non-proliferation of weapons of mass destruction: with assistance from the Millennium Challenge Corporation, a United States agency, a pilot internal investigation department was established in the administration of the State Border Service; a legislative and regulatory framework was developed for the department; and in May 2010, a call to tender for the purchase of equipment for such pilot entities was issued.

5. Physical protection

National body regulating nuclear radiation protection

The national nuclear radiation protection body is the State Nuclear Regulatory Inspectorate of Ukraine. The main tasks of the Inspectorate include participation in State policymaking and implementation in the area of the use of nuclear energy, and ensuring compliance with nuclear and radiation safety requirements. State policy in this area must have a legislative and regulatory framework if it is to be implemented effectively. The Inspectorate compiles information on the practice of applying legislation in the area of nuclear energy use. It analyses this practice in order to formulate proposals to enhance the legislation, which are submitted to the President and the Cabinet of Ministers, and it works to develop the regulatory and legal system on nuclear and radiation safety issues.

The Inspectorate is responsible for State regulation of nuclear and radiation safety, which consists of determining safety criteria, requirements and conditions for the use of nuclear energy (regulation); issuing of permits and licences to carry out activities in this area (licensing); and exercising State oversight of compliance with legislation, norms, regulations and standards for nuclear and radiation safety (oversight).

Regulatory activity in an area such as nuclear energy requires ongoing scientific and technical support. The Inspectorate plays an active role in establishing priority areas for the development of science and technology, State procurement, and designing State scientific and technical programmes: in accordance with the procedure established by law, it organizes scientific and technical research in the area of nuclear energy and ensures compliance with nuclear and radiation safety requirements.

The Inspectorate engages in international cooperation in the use of nuclear energy and ensures nuclear and radiation safety. It coordinates, within its areas of competence, cooperation of the executive authorities, State enterprises, departments and organizations with the International Atomic Energy Agency, other international organizations and foreign powers which are involved in the field of nuclear energy, including in combating the illegal diversion of nuclear materials. The constant exchange of information and experience with developed States in the area of nuclear energy use and nuclear and radiation safety allows the Inspectorate to take advantage of their positive experience in its regulation of nuclear and radiation safety in Ukraine and to enhance the national legislative and regulatory framework.

Physical protection of nuclear material

Ukraine has been a party to the Convention on the Physical Protection of Nuclear Material since 1993.

Ukraine affirms the need to expand international cooperation and consolidate the efforts of the international community to introduce comprehensive and effective methods to respond to contemporary nuclear safety challenges. In this connection, at the State level, in accordance with Presidential Decree No. 1035/2010 of 15 November 2010, a multifaceted national plan for 2010-2012 to implement the Washington Nuclear Security Summit Work Plan was adopted. Based on the results of the national plan, the central executive agencies of Ukraine will, by 1 March

2012, prepare a national report on implementation by Ukraine of agreements concluded at the Washington Nuclear Security Summit in 2010.

In Ukraine, there is continuous monitoring and amendment of current legislation and regulatory acts to improve physical nuclear safety in the country in such areas as physical protection, sabotage, trafficking, import and export, and enforcement measures, inter alia.

Coordination of the work of central executive bodies at the level of the Cabinet of Ministers of Ukraine

In accordance with Presidential Decree No. 1035/2010 of 15 November 2010 on the 2010-2012 national plan to implement the Washington Nuclear Security Summit Work Plan:

- A draft comprehensive plan of action to improve the physical safety of nuclear facilities, nuclear materials, radioactive wastes and other sources of ionizing radiation has been developed. The draft was submitted to the Cabinet of Ministers on 17 January 2011 (para. 1). The plan includes measures to develop training and physical infrastructure for a research centre on physical protection and developing a safety culture at the Sevastopol National University of Nuclear Energy and Industry and the Training Centre for Physical Protection, Accounting and Control of Nuclear Materials at the Nuclear Research Institute of the National Academy of Sciences (para. 17);
- The strategy for a nationwide special programme on the security of nuclear facilities, nuclear materials, radioactive wastes and other sources of ionizing radiation is being developed. An intergovernmental working group has been established within the State Nuclear Regulatory Inspectorate of Ukraine to further refine the project (para. 5);
- A draft of working arrangements for the State physical protection system has been produced (para. 16, Ministry of Energy);
- An assessment of the status of the integrated physical nuclear safety support plan of Ukraine for the period 2007 to 2009 was carried out. The results have been submitted to the Cabinet of Ministers for consideration (para. 9);
- A comprehensive analysis of cooperation by Ukraine as part of the initiatives of the Group of Eight Global Partnership Against the Spread of Weapons and Materials of Mass Destruction has been prepared (para. 4);
- An updated national report on Security Council resolution 1540 (2004) has been prepared (para. 3).

Ministry of Foreign Affairs of Ukraine

On 6 October 2010, a joint declaration by the delegations of Ukraine, Mexico and Chile, countries which have voluntarily taken steps to minimize the use of highly enriched uranium for civilian purposes, was circulated as an official document of the General Assembly and the Security Council (A/65/494-S/2010/511) at United Nations Headquarters in New York.

Ministry of Internal Affairs of Ukraine

The Ministry of Internal Affairs is continuously taking the necessary steps to strengthen the protection and defence of high-risk nuclear, chemical and other technological facilities and enhance the military and combat readiness of the military forces of the Ministry of Internal Affairs which ensure the physical protection of those facilities.

Designated divisions have been established within the military forces of the Ministry to deal with any problems and to combat manifestations of terrorism at such facilities. Joint exercises are conducted every year at all high-risk nuclear, chemical and other technological facilities to test the forces and equipment involved in their physical protection.

The Ministry of Internal Affairs and the Ministry of Energy and Coal take joint measures to enhance the level of physical protection of the nuclear power and atomic facilities in accordance with International Atomic Energy Agency (IAEA) requirements. Members of the military forces of the Ministry of Internal Affairs undergo training at the Kuzmycz Training Centre for Physical Protection, Accounting and Control of Nuclear Materials and necessary equipment, gear and vehicles are procured, both as part of joint projects with the United States of America.

Automated access control systems have been introduced at all nuclear power plants in Ukraine, as have systems for automated video surveillance of site perimeters and essential facilities. Maintenance work to replace technical security equipment whose service life has expired is carried out on a regular basis.

Ministry of Energy and Coal

To ensure a high level of physical protection for nuclear facilities, nuclear materials, radioactive wastes and other sources of ionizing radiation, the Ministry of Energy and Coal of Ukraine ensures the necessary conditions at the sites of enterprises, institutions and organizations which are under its authority. The Ministry has developed the necessary regulatory and legal documents:

- Order No. 322 of 9 June 2008 on adoption of regulations on the system of professional training, retraining, support and continuing education for physical protection, security and emergency response specialists;
- Order No. 196 of 8 April 2009, on adoption of additions to the manual of professional job descriptions (edition 62) in order to include the following previously omitted professions: director of physical protection service; director of physical protection department within the physical protection service; physical protection engineer; and physical protection technician;
- Joint Order No. 128/146/58 of 3 March 2009 (Ministry of Energy, Ministry of Emergency Situations and the National Academy of Sciences of Ukraine) on adoption of requirements for the physical protection unit and its personnel;
- Joint Order No. 519/672 of 18 October 2009 (Ministry of Energy, Ministry of Emergency Situations) on adoption of requirements for the communications subsystem of the physical protection system;

– Joint Order No. 252/492/267 of 23 June 2010 (Ministry of Energy, Ministry of Emergency Situations and Ministry of Internal Affairs) on adoption of operations procedures for technical equipment for physical protection systems at nuclear facilities and sites where radioactive wastes and other nuclear waste products are handled.

As part of efforts to mobilize international technical assistance, the Ministry of Energy is planning to update the obsolete and worn-out security equipment of physical protection systems at nuclear power plants in Ukraine.

The National Security and Defence Council of Ukraine has drafted a design basis threat document for nuclear energy use, to provide a mechanism for determining State threat assessment. The document is under consideration in the Office of the President of Ukraine.

Ministry of Emergency Situations of Ukraine

In accordance with the provisions of the Protocol Additional to the Agreement between Ukraine and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (Act No. 3092-IV of 16 November 2005), the Ministry submits full annual statements with the relevant information on sites which are under the authority of the Ministry of Emergency Situations of Ukraine, and also grants IAEA representatives access to sites for inspection purposes.

In order to implement the Protocol Additional to the Agreement between Ukraine and the International Atomic Energy Agency, the Chernobyl Nuclear Power Plant, a State enterprise, has developed and implemented regulations on IAEA inspection activities.

During the period from 2007 to 2010, the Ministry organized events related to implementation of Ukraine's comprehensive physical nuclear security support plan.

The Ministry of Emergency Situations of Ukraine is actively carrying out a project in tandem with States parties to the Group of Eight Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, in particular in order to remove vulnerable radioactive sources from use and to transfer them to safe storage places to avoid the possibility of trafficking, and also to prevent and rule out the possibility of the misuse and proliferation of spent ionizing radiation sources.

The Ministry has been actively involved in the development and harmonization of legislative acts to ensure the physical protection of nuclear materials.

Ministry of Health of Ukraine

In accordance with article 23 of the Act on the sanitary and epidemiological well-being of the population of 24 February 1994, all work with ionizing radiation sources and other radioactive substances shall take place with the authorization of the State sanitary and epidemiological service of the Ministry of Health of Ukraine.

In accordance with the Ministry of Health Order on the principal sanitary rules for radiation safety in Ukraine of 2 February 2005, the Ministry authorizes activity with ionizing radiation sources in Ukraine and also makes arrangements for their

shipping or transfer to other institutions or enterprises or into storage and maintains inventories of such sources, including in medical institutions.

Ministry of Health Order No. 137 of 20 March 2006 introduced a comprehensive programme for implementing State sanitary oversight in the field of radiation safety and environmental radiation monitoring with institutions of the State health and epidemiological service of the Ministry of Health of Ukraine, with institutions of the Academy of Medical Sciences of Ukraine also participating.

State Nuclear Regulatory Inspectorate of Ukraine

Ukraine, along with 25 other States parties, initiated adoption of the Amendment to the Convention on the Physical Protection of Nuclear Material. It was adopted on 8 July 2005. Ukraine ratified the Amendment on 3 September 2008. Changes were made to Act No. 1718-VI of 17 November 2009 in order to incorporate the provisions of the Amendment into Ukrainian nuclear legislation.

In order to strengthen the physical protection of nuclear materials and to bring it into compliance with current requirements, the State Nuclear Regulatory Inspectorate has issued and adopted, through its orders, regulations for the physical protection of nuclear facilities and nuclear materials, general requirements for the physical protection systems of nuclear facilities and nuclear materials, and general requirements for physical protection of nuclear materials during transfer. There is continuous State oversight to make sure that the relevant organizations and other licensees are in compliance with the levels of physical protection required by law.

National Academy of Sciences of Ukraine

On 14 January 2011, the National Academy of Sciences of Ukraine signed an implementing agreement with the Ukraine-Japan Cooperation Committee on the elimination of nuclear weapons, which are slated for reduction in Ukraine (1994). The purpose of the agreement is to obtain reliable data on the characteristics and isotope component of nuclear material and to replace obsolete equipment at the Kharkiv Institute of Physics and Technology of the National Academy of Sciences of Ukraine.

Physical protection of biological and bacteriological materials

The Cabinet of Ministers of Ukraine adopted Decision No. 705 of 12 October 1994 on the State system of deposit of micro-organism strains and Decision No. 1300 of 17 August 1999 on the development of a State system for deposit of microbial strains, thereby limiting the number of depositories of biological material in order to prevent unsanctioned use of biological agents.

To address the most important aspects of biosecurity and the prevention of bioterrorism, that is, to regulate organization of the State system for detection and identification, the Ministry of Health of Ukraine adopted Order No. 426 of 24 October 2001 on enhancing the security of organizations working with micro-organisms. In addition, Ministry of Health and Academy of Medical Sciences Order No. 123/27 on enhancing the functioning of the system for identifying biologically pathogenic agents (BPA) has been in effect since 21 March 2003.

Organizations which are part of the BPA detection system follow the provisions of the Constitution of Ukraine (articles 3, 27 and 49), the acts on civil

defence, on the legal regime for emergency situations, on protection of the population and territory from man-made and natural emergency situations, on protection of the population from infectious diseases and on ensuring the health and epidemiological well-being of the population, and Cabinet of Ministers Decision No. 1998 of 3 August 1998 on a unified State system for prevention of and response to man-made and natural emergency situations.

In accordance with Ministry of Health Order No. 123/27 of 21 March 2003, the entire territory of Ukraine is divided into six zones, and each zone has a detection centre that is attached to a leading research and development institution in the field of epidemiological protection (the L. Gromashevsky Institute for Epidemiology and Infectious Diseases of the Academy of Medical Sciences of Ukraine for Kyiv and the Chernihiv, Cherkasy and Poltava Regions; the I. I. Mechnikov Institute of Microbiology and Immunology of the Academy of Medical Sciences of Ukraine for the Kharkiv, Donetsk, Luhansk and Sumy Regions; the Lviv Research and Development Institute of Epidemiology and Hygiene of the Ministry of Health of Ukraine for the Lviv, Volyn, Ternopil and Ivano Frankivsk Regions; the I. Mechnikov Ukrainian Research and Development Plague Control Institute of the Ministry of Health of Ukraine for the Odessa, Mykolaiv, Vinnytsia and Kirovohrad Regions; the Crimean Plague Control Station of the Ministry of Health of Ukraine for the Crimean Autonomous Republic, Sevastopol and the Zaporozhia, Kherson and Dnipropetrovsk Regions and the Central Sanitary and Epidemiological Service of the Ministry of Health of Ukraine for Kyiv and the Zhitomyr, Khmelnytskyi and Rivne Regions.

In November 2010, the Council of the Ukrainian Science and Technology Centre approved a decision to begin cooperation with the European Union in order to strengthen the physical protection system of the Ukrainian Plague Control Station of the Ministry of Health of Ukraine in the city of Simferopol and the Khmelnytskyi Regional Sanitary and Epidemiological Station. The European Union is expected to be represented by the Ukrainian Science and Technology Centre under a memorandum of understanding signed with the Ministry of Health of Ukraine.

The Ministry of Health of Ukraine and the Commission on Biosecurity and Bioprotection of the National Security and Defence Council of Ukraine are working on a framework for a State biosecurity and bioprotection programme in Ukraine for the period 2011 to 2016.

6. Liability for the proliferation of weapons of mass destruction

Liability for violation of the laws on State control of the non-proliferation of weapons of mass destruction is governed by the Criminal Code, the Code of Administrative Offences (arts. 188 and 212) and the Act on State control of international transfers of military and dual-use goods (section IV, Prevention of violations and liability in the area of State export control).

In accordance with article 24 of the Act on State control of international transfers of military and dual-use goods, offences in the area of State export control include:

(1) Conduct of international transfers of goods without obtaining a licence, authorization or document of guarantee under the established procedure or conduct of such transfers on the basis of licences, authorizations or documents of guarantee

obtained by submitting counterfeit documents or documents containing inaccurate information;

(2) Conclusion of foreign trade agreements (contracts) concerning international transfers of any goods or participation in their implementation in any way other than as specified by the Act on State control of international transfers of military and dual-use goods if the exporter becomes aware that such goods may be used by a foreign State or foreign business for the purpose of producing weapons of mass destruction or their means of delivery;

(3) Conduct of international transfers of goods even though the exporter has become aware that the goods will be used for other purposes or by other end-users than those specified in the foreign trade agreement (contract) or related documents on the basis of which the licence, authorization or international import certificate was obtained;

(4) Deliberate concealment of information relevant to the decision on whether to grant licences, authorizations or international import certificates;

(5) Conduct of international transfers of goods in violation of the conditions specified in the licences, authorizations or international import certificates, including after making changes to the foreign trade agreement (contract), without the consent of the designated export control authority, concerning the names and identifying information of exporters, importers, brokers and end-users and also the descriptions of goods, end-use requirements and submission of the relevant documents of guarantee;

(6) Conduct of negotiations concerning the conclusion of foreign trade agreements (contracts) on the export of goods, in respect of the supply of which a partial embargo has been imposed on the foreign State concerned, based on Ukraine's international obligations, without obtaining authorization from the designated export control authority;

(7) Failure to submit or late submission to the designated export control authority of reports and relevant documents on the outcome of the negotiations specified in paragraph 8 of this article, on exports and imports of goods actually carried out on the basis of licences, authorizations or international import certificates obtained and also on the use of such goods for their declared purposes;

(8) Obstruction of the performance of the official duties of staff of the designated export control authority and other State bodies involved in State export control during the performance of their official duties or failure to comply with legitimate requests by such persons;

(9) Unwarranted refusal to provide information and documents requested by the designated export control authority or other competent State agencies involved in State export control or the deliberate falsification or concealment of such information and documents;

(10) Deliberate destruction of documents relating to the conclusion or execution of foreign trade agreements (contracts) on the conduct of international transfers of goods on the basis of which licences, authorizations or international import certificates were received until the end of the period during which they are required to be retained under article 22 of the Act on State control of international transfers of military and dual-use goods.

Article 25 of this Act establishes the liability of individuals and legal entities involved in international transfers of goods for violation of the requirements of the law in the area of export control specified in article 24 (paras. 1-10 cited above).

The State Export Control Service imposes fines for violations by individuals and legal entities involved in international transfers of goods, as follows:

Under paragraphs 1 and 2: in cases where, according to the conclusions of the central authorities and other State bodies, national interests (political, economic or military) have been harmed or international obligations of Ukraine have been violated, 150 per cent of the value of the goods which were involved in the relevant international transfer;

In cases where, according to the conclusions of the central authorities and other State bodies, national interests (political, economic or military) have been harmed but no international obligations of Ukraine have been violated, 50 per cent of the value of the goods which were involved in the relevant international transfer;

Under paragraphs 3, 4 and 5: 100 per cent of the value of the goods which were involved in the relevant international transfer;

Under paragraphs 6 and 10: 1,000 times individual income tax exemption limit;

Under paragraph 7: 500 times the individual income tax exemption limit;

Under paragraphs 8 and 9: 100 times the individual income tax exemption limit.

This article also provides that the State Export Control Service, besides imposing the aforementioned fines, may revoke or suspend the licence, authorization or international import certificate for the conduct of international transfers of goods which it granted to such economic entity or revoke its registration with the authority as an entity authorized to conduct international transfers of goods, thereby suspending all licensing documents and documents of guarantee issued to that entity which were current on the date of the revocation of registration.

Criminal liability for the proliferation of weapons of mass destruction

Any development, production, stockpiling or use of weapons of mass destruction is the result of the decisions and actions of individuals, whether they are officials, private businessmen, weapons experts or terrorists. However, the international conventions prohibiting such weapons have almost no provisions on individual liability. States therefore need to introduce appropriate provisions in their legislation to establish criminal liability for activities linked with the proliferation of weapons of mass destruction.

The Criminal Code of Ukraine thus contains eight articles which in one way or another are concerned with criminal liability for activities involving the potential proliferation of weapons of mass destruction: article 258 (Terrorist act); article 261 (Attacks on facilities which contain objects posing a heightened risk to the environment); article 321 (Illegal production, manufacture, acquisition, transport, transfer and stockpiling for sales purposes or sale of toxic and potent substances); article 326 (Infringement of the rules on handling microbiological or other biological agents or toxins); article 333 (Illegal export from Ukraine of raw

materials, inputs, equipment and technology for weapons manufacture, and also military and specialized technology); article 439 (Use of weapons of mass destruction); article 440 (Development, production, acquisition, stockpiling, sale and transport of weapons of mass destruction); and article 441 (Ecocide).

Article 333

Article 333 establishes criminal liability for violation of the established procedure for conducting international transfers of goods subject to State export control. Such actions are punishable by a fine of from 100 to 200 times the individual income tax exemption limit or by custodial restraint for up to three years or imprisonment for the same term, with deprivation of the right to hold certain offices or engage in certain activities for up to three years. In the event that such actions are committed repeatedly or by an organized group, they are punishable by a term of up to five years of custodial restraint or the same term of imprisonment, with deprivation of the right to hold certain offices or engage in certain activities for up to three years.

Article 439
Use of weapons of mass destruction

1. The use of weapons of mass destruction prohibited by international treaties by which the Verkhovna Rada has agreed to be bound is punishable by a term of from 8 to 12 years of imprisonment;

2. In the event that such acts cause the death of persons or other grave consequences they are punishable by a term of from 8 to 15 years of imprisonment or life imprisonment.

Article 440
Development, production, acquisition, stockpiling, sale and transport of weapons of mass destruction

The development, production, acquisition, stockpiling, sale and transport of weapons of mass destruction prohibited by international treaties by which the Verkhovna Rada has agreed to be bound is punishable by a term of from 3 to 10 years of imprisonment.

In May 2007, the Ukrainian Security Service submitted amendments to article 265 of the Criminal Code on unlawful handling of radioactive materials to the Verkhovna Rada. In March 2008, an international seminar was held on the topic of enhancing legislation in this area. On 18 May 2010 the Verkhovna Rada adopted Act. No. 2262-VI which amended the Criminal Procedure Code to include investigative jurisdiction within the purview of law enforcement agencies. This refers to the competence of the Security Service to investigate cases relating to offences under article 265-1 (Illicit manufacture of a nuclear explosive device that disseminates radioactive material or radiation).

Code of Administrative Offences

Article 188 of the Code of Administrative Offences establishes the administrative responsibility of individuals and legal entities for non-compliance with legitimate requests by staff of the designated export control authority. Such

violations, are punishable by a fine on nationals of from 15 to 20 times the individual income tax exemption limit and a fine on officials of from 20 to 50 times the individual income tax exemption limit.

Moreover, in accordance with article 212, violations of the State export control legislation is punishable by a fine on nationals of from 15 to 20 times the individual income tax exemption limit and a fine on officials of from 20 to 50 times the individual income tax exemption limit in the event of:

(1) Conduct of negotiations concerning the conclusion of foreign trade agreements (contracts) on the export of military goods, as well as dual-use goods in respect of the supply of which a partial embargo has been imposed on the foreign State concerned, without obtaining authorization from the designated export control authority;

(2) Failure to submit or late submission of reports and relevant documents to the designated export control authority concerning the outcome of the negotiations specified in paragraph 1 of this article and also concerning international transfers of military and dual-use goods actually carried out on the basis of licences or certificates obtained and also on the use of such goods for their declared purposes;

(3) Deliberate destruction of documents relating to the conclusion or execution of foreign trade agreements (contracts) on the conduct of international transfers of military and dual-use goods on the basis of which licences, authorizations or international import certificates were received until the end of the period during which they are required by law to be retained.

Annex II to the note verbale dated 23 February 2011 from the Permanent Mission of Ukraine to the United Nations addressed to the Chairman

[Original: English]

Operative paragraph 1 and related matters from operative paragraphs 5, 6, 8 (a), (b) and (c) and 10

State: Ukraine
Date of report: 18 February 2011

General amendments and updates

Did you make one of the following statements or is your country a State Party to or Member State of one of the following Conventions, Treaties and Arrangements?		*YES*	*If YES, indicate relevant information (i.e., signing, accession, ratification, entering into force, etc.)*	*Remarks (information refers to the page of the English version of the report or an official website)*
13	Other Conventions/Treaties		2. Amendment to the Convention on Physical Protection of Nuclear Material. Ratified 3 September 2008 3. Protocol Additional to the Agreement between Ukraine and the International Atomic Energy Agency for the Application of Safeguards relating to the Treaty on the Non-Proliferation of Nuclear Weapons. Ratified by the Law of Ukraine 19 December 2005	
14	Other Arrangements	YES	3. G-8 initiative "Global Partnership against the Spread of Weapons and Materials of Mass Destruction", Ukraine's participation since 2004	
15	Other	YES	Working Plan commitments of the 2010 Washington nuclear security summit	National Plan adopted by the Decree of the President of Ukraine No. 1035/2010 of 15 November 2010

Operative paragraphs 3 (a) and (b) — Account for/secure/physically protect biological weapons, including related materials

State: Ukraine
Date of report: 18 February 2011

Are any of the following measures, procedures or legislation in place to account for, secure or otherwise protect BW and Related Materials? Can violators be penalized?		*National legal framework*		*Enforcement: civil/criminal penalties, and others*		
		YES	*If YES, indicate source document*	*YES*	*If YES, indicate source document*	*Remarks*
1	Measures to account for production		///...(with amendments taken on 23.07.2009, No. 257)			
2	Measures to account for use		///...(with amendments taken on 23.07.2009, No. 257)			
3	Measures to account for storage		///...(with amendments taken on 23.07.2009, No. 257)			
4	Measures to account for transport		///...(with amendments taken on 23.07.2009, No. 257)			
5	Other measures for accounting					
6	Measures to secure production		///...(with amendments taken on 23.07.2009, No. 257) 2. General Requirements to Physical Protection Systems of Nuclear Facilities and Nuclear Materials, approved by State Nuclear Regulatory Committee No. 156 of 28 August 2008	X	Code of Administrative Offences, article 95	
7	Measures to secure use		///... 2. General Requirements to Physical Protection Systems of Nuclear Facilities and Nuclear Materials, approved by State Nuclear Regulatory Committee No. 156 of 28 August 2008	X	Code of Administrative Offences, article 95	

Are any of the following measures, procedures or legislation in place to account for, secure or otherwise protect BW and Related Materials? Can violators be penalized?		*National legal framework*		*Enforcement: civil/criminal penalties, and others*		
		YES	*If YES, indicate source document*	*YES*	*If YES, indicate source document*	*Remarks*
8	Measures to secure storage		///... 2. General Requirements to Physical Protection Systems of Nuclear Facilities and Nuclear Materials, approved by State Nuclear Regulatory Committee No. 156 of 28 August 2008	X	Code of Administrative Offences, article 95	
9	Measures to secure transport		///... 2. General Requirements to Physical Protection Systems of Nuclear Facilities and Nuclear Materials, approved by State Nuclear Regulatory Committee No. 156 of 28 August 2008	X	Code of Administrative Offences, article 95	
18	Other		Law of Ukraine on providing sanitary and epidemiologic welfare of the citizens, adopted on 24.02.1994 (with amendments)	X	Code of Administrative Offences	